IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2554 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SAURASHTRA CHEMICALS

Versus

DEPUTY SECRETARY

Appearance:

NANAVATI ASSOCIATES for Petitioner

Mr.R.V. Desai, ASSTT GOVERNMENT PLEADER for Respondent No. 1

MR. P.H. Pathak for Mr. KISHOR M PAUL for Respondent No.2

CORAM : MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 16/06/2001

ORAL JUDGEMENT

Rule. Mr.Pathak, learned advocate waives service of rule.

2. The present application is filed being aggrieved of an order dated 3.2.2001, whereby Labour and Employment Department, Government of Gujarat, referred the matter contained in the schedule appended to the said order as an industrial dispute, in exercise of the powers conferred by clause (d) of subsection (1) of section 10 of the Industrial Disputes Act, 1947 (hereinafter

referred to as "the Act"). The Government referred the said dispute to the Industrial Tribunal, Rajkot for its adjudication and in exercise of powers conferred under subsec.(3) of sec.10 of the Act, prohibited continuance of any strike in connection with such dispute which might be in existence on the date of the said order. The Government also specified the period of three months from the date of the order under sec.10(2A) of the Act. The dispute referred in the schedule reads as under:

> "Whether all the workmen working in the establishment should or should not be paid interim relief?"

The matter came to be registered as Reference (IT) No.27 of 2001 before the Industrial Tribunal No.2, Rajkot wherein the present petitioner filed an application, exh.16, raising preliminary objections which came to be decided by an order dated 31.3.2001, whereby the said application of preliminary issue was rejected. Both these orders are under challenge before this Court in this Special Civil Application.

3. Mr.Nanavati, learned advocate for the petitioner submitted that the respondent no.2 Union raised certain demands by a Charter of Demands dated 18.5.1998 and after some negotiations thereon, said Charter of Demands came to be referred to the Industrial Tribunal at Rajkot. Thereafter, on a joint request of both the parties the same came to be transferred to the Industrial Tribunal at Ahmedabad, which is pending as Reference (IT) No.474 of 2000, till date, since it is newly numbered on its transfer from Industrial Tribunal, Rajkot. Simultaneously, the Union also raised a demand by letter dated 29.7.1998, whereby the reliefs during pendency of the aforesaid proceedings were sought for. As both the parties could not agree on the amount which shall be paid by way of interim relief as the management was ready to pay only a sum of Rs.175/-, by way of interim relief while the respondent Union adhered to its demand of Rs.540/-, by way of interim relief. This gave rise to the present reference-- Reference (IT) No.27 of 2001.

4. Mr.Nanavati, learned advocate submitted that during pendency of the main demand before the Industrial Tribunal, Ahmedabad, referring the matter of interim relief as an independent dispute to the Industrial Tribunal at Rajkot is not legal and same is required to be quashed and set aside as it will unnecessarily create complications. He submitted that if the same is tried as an independent dispute, the award passed by the

Industrial Tribunal at Rajkot will be an independent award and on its publication in the Official Gazette, assumes finality. Once that happens and thereafter it the Industrial Tribunal at Ahmedabad in main Reference comes to any other conclusion, will create a complication which may be beyond repair. Mr.Nanavati submitted that it will be not only in the fitness of things but also in the interest of justice that the matter of interim relief which is referred as an independent issue to Rajkot Industrial Tribunal is ordered to be heard and tried by Ahmedabad Industrial Tribunal as interim relief in pending reference. He fairly submitted that he is ready to assure on behalf of his client that he will extend full cooperation for early disposal, if the subject matter of Reference before the Industrial Tribunal at Rajkot is treated as a matter of interim relief before the Industrial Tribunal at Ahmedabad.

5. Mr.Pathak, learned advocate for the respondent Union submitted that his only apprehension is that this transfer might result into delay. He also submitted that in fact, the Company has given substantial pay rise to all its officers and only the workmen, who are the members of the respondent Union are deprived of the wage rise and not only that even the most reasonable demand of the Union of Rs.540/-, per month as interim relief is also turned down. The management has not accepted the demand of the Union and has taken the stand that the workers are entitled to only Rs.175/-, by way of interim relief. Mr.Pathak submitted that if due care is taken to see that by treating the subject matter of reference of Industrial Tribunal, Rajkot as a matter for interim relief, no delay will be caused and if the Tribunal is directed to decide the same in a time bound schedule, he does not have any objection in principle.

6. In view of the discussion hereinabove, a consensus is arrived at and by consent of the parties, the order passed in Reference (IT) No.27 of 2001 dated 31.3.2001 is hereby quashed and set aside and the order dated 3.2.2001, Annexure 'B' to the petition, is also quashed and set aside except the portion by which it prohibits continuance of any strike in connection with such dispute which might be in existence on the date of the said order. It is however, made clear that rest of the order dated 3.2.2001, Annexure 'B' to the petition, remains in force. Said order dated 3.2.2001, Annexure 'B' is quashed and set aside with the aforesaid exception by consent without adjudicating upon the main issue which is reported to be pending before this Court in Special Civil Application No.1132 of 2001.

7. The Industrial Tribunal, Rajkot is directed to transfer proceedings of Reference (IT) No.27 of 2001 along with all pleadings thereof to the Industrial Tribunal, Ahmedabad and the same should be numbered as an application for interim relief in the main Reference (IT) No.474 of 2000. It is further clarified that both the parties will be at liberty to lead any evidence which they want to lead in support of this interim application and the Industrial Tribunal at Ahmedabad shall see that the application for interim relief is decided on or before 31st July 2001, without being influenced by any observations made in the order dated 31.3.2001 by the Industrial Tribunal No.2, Rajkot.

8. Mr.K.S. Nanavati, learned advocate for the petitioner submitted that when the matter was transferred from Rajkot to Ahmedabad, it was at the joint request of both the parties. Not only that, the petitioner company has extended the facility of bringing the concerned employees to Ahmedabad before the Industrial Tribunal for their deposition and for any other ancillary work, the expenses are born by the Company and employees are treated on duty. It is expected of the petitioner that the same gesture will continue during the proceedings of interim application as well as hearing of the main reference.

9. Taking into consideration the nature of the dispute involved and pendency of the demand raised by the respondent Union about the wage revision even the main reference is also directed to be decided by 15.9.2001.

10. The Special Civil Application stands disposed of with the aforesaid directions. Rule is made absolute to the aforesaid extent. No order as to costs.

(Ravi R. Tripathi, J.)

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